

## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,828	12/12/2003	Roland Deckwer	09879-00039-US BCS 02-100	5323
23416 75	90 07/05/2006		EXAM	INER
	BOVE LODGE & HUT	CLARDY, S		
	P O BOX 2207 WILMINGTON, DE 19899			PAPER NUMBER
.,	,		1617	
			D 4 777 3 4 4 4 7 777 0 0 10 4 10 0 4	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/734,828	DECKWER ET AL.					
Office Action Summary	Examiner	Art Unit					
-	S. Mark Clardy	1617					
The MAILING DATE of this communication app	I						
Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATE OF THIS COMMUNICATE OF THIS COMMUNICATE OF THE O	ATION.  bly be timely filed  HS from the mailing date of this communication.  NDONED (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 18 Oc	<u>ctober 2004</u> .						
2a) This action is <b>FINAL</b> . 2b) ⊠ This	,—						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims							
4)⊠ Claim(s) <u>1-14</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6) Claim(s) <u>1-14</u> is/are rejected.							
Claim(s) is/are objected to.      Claim(s) are subject to restriction and/or	7) Claim(s) is/are objected to.						
o) Claim(s) are subject to restriction and/or	election requirement.						
Application Papers							
9)☐ The specification is objected to by the Examine	r.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
The dath of declaration is objected to by the Ex	ammer. Note the attached	Office Action of form PTO-132.					
Priority under 35 U.S.C. § 119							
12)⊠ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)⊠ All b)□ Some * c)□ None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
	•						
Attachment(s)							
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO-948)		4)					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 12/12/03, 5/27/04.		ormal Patent Application (PTO-152)					

Application/Control Number: 10/734,828 Page 2

Art Unit: 1617

Claims 1-14 are pending in this application.

Applicants' claims are drawn to safened herbicidal oil suspension concentrates, methods of making them, and methods of using them, the compositions comprising:

a) suspended sulfonamide herbicide(s), in claim 2:

phenylsulfonamides phenylsulfonylaminocarbonyltriazolinones phenylsulfonylureas heteroarylsulfonylaminocarbonyltriazolinones heteroarylsulfonylureas

b) safener(s), in claim 3:

isoxadifen 8-quinolineoxyacetic acid (cf: cloquintocet)

c) organic solvent(s), in claim 4:

(subst.) hydrocarbons, aprotic polar solvents, fatty acid esters

d) sulfosuccinate(s), in claim 5:

mono-/di-esters of sulfosuccinic acid:

$$HOOC - CH_2 - CH(SO_3H) - COOH$$

The triazinylsulfonylureas iodosulfuron and thifensulfuron are specifically exemplified, as is the safener mefenpyr (p. 94).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites a various classes of herbicides, some preferred, apparently others not so preferred. The classes are also somewhat "nested" with some classes calling within the scope of others. It is difficult to assess how the claim is structured. It would be preferable to simply recite the various classes in separate dependent claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Schnabel et al (US 6,693,063), Wurtz et al (US 2002/0016263), and Sixl (US 6,479,432).

Schnabel et al teach emulsifiable concentrates (column 10) comprising ALS inhibitors such as sulfonylurea herbicides (columns 19-21) including iodosulfuron (col 19, lines 45-47) and thifensulfuron (col 21, line 36), in combination with safeners (columns 27-28), hydrocarbon solvents (column 15), and wetting agents such as sulfosuccinic acid esters (col 16, lines 20-25).

Wurtz et al teach liquid formulations, i.e., emulsion concentrates (para 12) comprising ALS inhibiting herbicides such as the sulfonamides and sulfonylureas (para 69-120) and polycarboxylic acid derivatives such as sulfosuccinic acid esters (para 44-55). The compositions may further comprise organic solvents and surfactants (para 122-141), and safeners (para 163-178). Preferred compositions comprise a sodium dialkylsulfosuccinate, one or more sulfonylureas such as iodosulfuron, and a safener such as mefenpyr or isoxadifen (para 181).

Art Unit: 1617

Six1 teaches suspension concentrate compositions (abstract) comprising sulfonylurea herbicides (col 3-6), safeners (col 10), organic solvents (col 10-12), emulsifiers (col 12-14), and other agents (abstract).

One of ordinary skill in the art would be motivated to combine these references in order to take advantage of the formulation advantages of the various adjuvant materials in these patents that all pertain to suspensions of sulfonylurea herbicides.

Thus it would have been *prima facie* obvious to the ordinary artisan at the time the invention was made to have combined applicants' components in a single herbicidal oil suspension concentrate because the prior art teaches that it was well known in the art to combine the disclosed sulfonylurea herbicides, safeners, and solvents in a suspension concentrate, and because Wurtz et al specifically discloses the utility of adding the sulfosuccinate esters in these compositions.

No unobvious or unexpected results are noted; no claim is allowed.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Mark Clardy

Primary Examiner Art Unit 1617

June 23, 2006